



**Advisory Commission on
State Emergency Communications**

DOCKET FILE COPY ORIGINAL

Ron Harris, CHAIR
Arlene Aldridge
Jimmy Burson
Sen. David Cain
Rep. Bill Carter
Pat Craven
Bill Deere
Brad Denton
Tony Fabelo
Lavonne Hogan
Terry Keel
Ron P. Mansolo
Bill Munn
Jim Ray
Jack Therwhanger
Wayne Whiteaker

James D. Goerke
EXECUTIVE DIRECTOR

August 6, 1997

RECEIVED
AUG 17 1997
FEDERAL COMMUNICATIONS COMMISSION

Office of the Secretary
Federal Communications Commission
1919 M. Street, N.W., Room 222
Washington, D.C. 20554

RE: In the Matter of Southwestern Bell Telephone Company's Petition for Forebearance from Application of Section 272 of the Communications Act of 1943, as Amended, to Previously Authorized Services; CC Docket No. 96-149.

Dear Commission Secretary:

Enclosed are an original and fifteen (15 copies) of Reply Comments on behalf of the Texas Advisory Commission on State Emergency Communications ("TX-ACSEC"). Please distribute the filing as appropriate, and file mark the extra copy and return it in the enclosed self-addressed, stamped envelope.

Thank you for your attention in this matter.

Sincerely,

Richard A. Muscat
Director, Regulatory Affairs
State Bar No. 14641550

333 Guadalupe Street
Suite 2-212
Austin, Texas 78701-3942
512-305-6911 V/TDD
512-305-6937 FAX

No. of Copies rec'd
List ABCDE

0218



**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**Southwestern Bell Telephone Company's §
Petition for Forbearance from §
Application of Section 272 of the §
Communications Act of 1943, as §
Amended, to Previously Authorized §
Services §**

CC Docket No. 96-149

RECEIVED
AUG 17 1997
FEDERAL MCI

To: The Commission

**COMMENTS OF THE TEXAS ADVISORY COMMISSION
ON STATE EMERGENCY COMMUNICATIONS**

**NOW COMES THE TEXAS ADVISORY COMMISSION ON STATE
EMERGENCY COMMUNICATIONS (TX-ACSEC), and submits these REPLY
COMMENTS in response to the Commission's Notice of Pleading Cycle (DA 97-1459, July 11,
1997) in CC Docket No. 96-149.**

I.

Introduction

The Commission should grant Southwestern Bell Telephone Company's (SWBT) and the other Bell Operating Companies' (BOC) petitions for forbearance. MCI has now clarified that it does not have a nondiscriminatory access to 9-1-1 information and/or database problem that needs correction by the application of Section 272. It is unfair to use these proceedings -- even if for a legitimate purpose -- as a forum to address and resolve issues not germane to these proceedings and/or issues that should be addressed and resolved before the appropriate state forum.

II.

The Facts Show that Granting Forbearance is Appropriate and in the Public Interest.

TX-ACSEC acknowledged in its first comment in this proceeding that it was uncertain as to the purposes and goals of applying aspects of Section 272 to 9-1-1 service. TX-ACSEC's July 10, 1997 comments at p. 2. Also in those comments, TX-ACSEC avoided taking a position for or against either group of parties, but urged the Commission that the petitions, as matters involving 9-1-1 service, deserve careful attention and consideration. *Id.* at pp. 1, 2, 5. TX-ACSEC in subsequent comments replied to SWBT's supplemental showing by stating that the "BOCs should have no reasonable objection to agreeing to provide 9-1-1 information, *unless it is not really a 9-1-1 issue or is information appropriately obtained from the PSAP.*" (emphasis in original) TX-ACSEC July 25, 1997 comments at p. 3, 5.¹ MCI's latest filing, however, has clarified that nondiscriminatory access to 9-1-1 information and/or databases are **not** its issues in this proceeding. MCI states:

MCI needs access to the emergency numbers in BOCs' E911 databases so it can provide emergency operator services. **Access to E911 service itself is not an issue.**

¹ TX-ACSEC also replied to other aspects of SWBT's supplemental showing. TX-ACSEC specifically replied to certain SWBT statements relating to the 9-1-1 competitive checklist requirement. *See*, TX-ACSEC July 25, 1997 comments at footnote one and four. TX-ACSEC, however, may have misinterpreted SWBT's comments as an attempt by it to get some type of advisory ruling by the Commission that the 9-1-1 competitive checklist requirement preempts state laws and regulations as to PSAP choice of a principal 9-1-1 provider. Whether or not TX-ACSEC misinterpreted SWBT's intent, the issue of PSAP choice is an issue appropriately left for determination at the state level based on state laws and regulations. TX-ACSEC's comments were directed toward a concern for the longer-term future of 9-1-1 service in Texas given the new local service environment, which should not be an issue germane to the proceeding or appropriately before the Commission, but rather is a state matter. FTA'96 § 253(b) ("Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis ... requirements necessary to ... protect public safety and welfare [e.g., 9-1-1 service]").

MCI Reply to Supplemental Showing at p. 5. Given this clarification, then there would seem to be no reasonable justification for accepting MCI's arguments against granting the BOCs' petitions for forbearance as to 9-1-1 service. MCI states that "application of separation requirements to the BOCs' E9-1-1 services is not necessary except in aid of the nondiscrimination requirements." MCI Reply to Supplemental Showing at p. 6. However, a BOC providing nondiscriminatory access to the millions and millions of telephone numbers and associated address records in an E911 database is not going to assist MCI much in extracting the small number seven or ten digit emergency service numbers that MCI seeks in these proceedings. The BOCs are correct that MCI has not presented anything which disputes or questions the facts presented by the BOCs showing that forbearance is appropriate and in the public interest.

III.

It is unfair to use these Proceedings as a Forum to Address and Resolve Issues not Germane to this Proceeding and/or Issues that should be addressed by State Forums.

SWBT and the other BOCs are requesting that the Commission do something that is discretionary (i.e., the act of granting forbearance). MCI, other providers, and TX-ACSEC may have issues with SWBT or other BOCs that they would like to see addressed and remedied. These issues may be very legitimate issues that deserve to be addressed and remedied before the appropriate state forum.² But that does not mean it is fair to use these unique circumstances to address and resolve issues that are not germane to these proceedings and/or issues that should be addressed before the appropriate state forum.

² See, TX-ACSEC July 25, 1997, comments at footnotes three and four and pp. 3-5.

Conclusion

The Commission should summarily grant SWBT's and the other BOCs' petitions for forbearance. MCI has clarified that it does not have a nondiscriminatory access to 9-1-1 information and/or database problem that needs correction by the application of Section 272. It is unfair to use these proceedings -- even if for a legitimate purpose -- as a forum to address and resolve issues not germane to these proceedings and/or that should be addressed and resolved before the appropriate state forum.

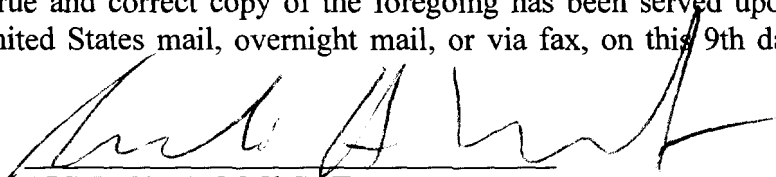
Respectfully submitted,



RICHARD A. MUSCAT
Director Regulatory/Legal Affairs
State Bar No. 14741550
Advisory Commission on State Emergency Communications
333 Guadalupe, Suite 2-212
Austin, Texas 78701-3942
Voice: (512) 305-6924
Fax: (512) 305-6937

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon all required parties, by prepaid United States mail, overnight mail, or via fax, on this 9th day of August 1997.



RICHARD A. MUSCAT

272thi.doc